

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION**

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No. 1:17-cv-1187-STA-egb

<b>GREGORY L. MOODY,</b>  <b>Petitioner,</b>  v.  <b>MICHAEL PARRIS, and</b> <b>HERBERT HARRISON</b> <b>SLATTERY, III,</b>  <b>Respondents.</b>	) ) ) ) ) ) ) ) ) ) ) ) )
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**ORDER DISMISSING PETITION,  
DENYING CERTIFICATE OF APPEALABILITY, AND  
DENYING LEAVE TO APPEAL *IN FORMA PAUPERIS***

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On September 27, 2017, Petitioner, Gregory L. Moody, filed a *pro se* habeas corpus petition (ECF No. 1) under 28 U.S.C. § 2254 (“Petition”). By Order dated October 4, 2017 (ECF No. 5), the Court directed Petitioner to file an amended petition on the Court’s official form within twenty-eight days. Although warned that failure to comply with the order would result in dismissal of the case under Federal Rule of Civil Procedure 41(b), Petitioner did not file an amended petition and the time for doing so has passed.

Accordingly, the Petition is **DISMISSED** without prejudice for failure to prosecute.

**APPEAL ISSUES**

A § 2254 petitioner may not proceed on appeal unless a district or circuit judge issues a certificate of appealability (“COA”). 28 U.S.C. § 2253(c)(1); Fed. R. App. P. 22(b)(1). A COA may issue only if the petitioner has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2)–(3). A “substantial showing” is made when the petitioner

demonstrates that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were ‘adequate to deserve encouragement to proceed further.’” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

In this case, reasonable jurists would not debate the correctness of the Court’s decision to dismiss the Petition. Because any appeal by Petitioner does not deserve attention, the Court **DENIES** a certificate of appealability.

Pursuant to Federal Rule of Appellate Procedure 24(a), a party seeking pauper status on appeal must first file a motion in the district court, along with a supporting affidavit. Fed. R. App. P. 24(a). However, Rule 24(a) also provides that if the district court certifies that an appeal would not be taken in good faith, the prisoner must file his motion to proceed *in forma pauperis* in the appellate court. *Id.*

In this case, for the same reasons it denies a COA, the Court **CERTIFIES**, pursuant to Rule 24(a), that any appeal in this matter would not be taken in good faith. Leave to appeal *in forma pauperis* is therefore **DENIED**.

**It is so ORDERED.**

s/ **S. Thomas Anderson**  
S. THOMAS ANDERSON  
CHIEF UNITED STATES DISTRICT JUDGE

Date: November 7, 2017